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I hereby certify that I am transmitting this correspondence to the Commissioner for Patents at the United States Patent and Trademark Office by telephone facsimile to telephone number (571) 273-8300 on Feb. 9, 2009.

By: _____

Michael Neary

Feb. 9, 2009

Date: Feb. 9, 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s):	Gerald J. Julien)	
)	Group A.U. 3618
Serial No.:	10/505,356)	
)	Examiner: John Daniel Walters
Filing Date:	August 19, 2004)	
Title:	Nitinol Ice Blades)	

Request for Clarification

Feb. 9, 2009

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

An Office Action dated Feb. 6, 2009, finally rejects claims 1-4 and 6-20, but the Office Action does not address the facts adduced in a Rule 132 Declaration that refute the Examiner's contentions regarding obviousness, or a report on Nitinol ice skates that was submitted on Aug. 1, 2008, nor does the final office action address any of the arguments submitted in Applicant's response dated May 12, 2008.

Rule 113(b) requires the Examiner to repeat or state all grounds for rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof. The Examiner states that a change of materials would have been obvious, and states that Applicant's arguments are "not persuasive", but he does not address the compelling facts in Ms. Buchanan's declaration regarding what experts in the art thought of 60 Nitinol as skate blade material. Applicant now must decide whether to appeal this final rejection without the benefit of the Examiner's explanation

why the opinion of experts in the field are unpersuasive while a single reference (which has been distinguished in arguments not answered by the Examiner) are more persuasive to the Examiner. Applicant believes that he should not be required to wait for an Examiner's Answer to an Appeal Brief to discover what the Examiner's thinking was about these fundamental reasons about a rejection. Applicant requests that the Examiner provide the answers to these questions in a supplemental final rejection to allow Applicant to address them on the merits, either in a request for continuing examination or in an Appeal Brief.

Applicant also requests that the Examiner address the Report that was submitted on August 1, 2008. The only acknowledgement that Applicant ever got regarding this Report was a receipt postcard. Was this Report ever entered in the file? Did the Examiner read and consider this Report? Applicant requests that the Examiner acknowledge receipt of this report, that he read and consider it, and if he considers it to be unpersuasive, that he explain why he reaches this opinion.

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Respectfully submitted,



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